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ATTORNEYS FOR THE CHAPTER 11 TRUSTEE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE:	§	
H. MELTON VENTURES, LLC	§	CASE NO. 17-43922-RFN-11
	§	<i>Jointly Administered Lead</i>
DEBTOR	§	
	§	
MELTON, HENRY JAMES, II	§	CASE NO. 17-44206-RFN-11
	§	
DEBTOR.	§	<i>Hearing Date: April 30, 2018</i>
	§	<i>Hearing Time: 9:30 a.m.</i>

**MOTION FOR ORDER APPROVING THE SALE OF NON EXEMPT PERSONAL
PROPERTY VIA ONLINE AUCTION**

HEARING DATE ON SUCH SALE IS SET FOR APRIL 30, 2018 9:30 A.M., WHICH IS AT LEAST 21 DAYS FROM THE DATE OF SERVICE HEREOF. NO OBJECTION TO SUCH SALE WILL BE CONSIDERED UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 501 W. 10TH STREET, FORT WORTH, TX 76102, BEFORE THE END OF BUSINESS C.S.T ON APRIL 25, 2018 WHICH IS AT LEAST TWENTY-ONE DAYS (21) FROM THE DATE OF SERVICE HEREOF. NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS FILED

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK, AND A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED, A HEARING MAY BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.

IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY REQUESTED, THE RELIEF REQUESTED MAY BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

TO THE HONORABLE RUSSELL F. NELMS, U. S. BANKRUPTCY JUDGE:

Scott M. Seidel, in his capacity as chapter 11 trustee (the “Trustee”) for the debtor in the above captioned case, files this *Motion for Order Approving the Sale* (the “Motion”) and in support would respectfully show as follows:

JURISDICTION AND PROCEDURAL BACKGROUND

1. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (M) and (O). Venue is proper under 28 U.S.C. §§ 1408 and 1409.

2. H. Melton Ventures, LLC filed a voluntary petition under Chapter 11, Title 11 of the United States Bankruptcy Code on September 28, 2017, case number 17-43922-RFN, which is pending before this Court, and is a debtor-in-possession.

3. Michael George Warden filed a voluntary petition under Chapter 11, Title 11 of the United States Bankruptcy Code on October 14, 2017, case number 17-33888-RFN-11

4. Henry James Melton, II (the “*Debtor*”) filed a voluntary petition under Chapter 11 of Title 11 of the United States Bankruptcy Code on October 14, 2017.

5. H. Melton Ventures RD, LLC filed a voluntary petition under Chapter 11 of Title 11 of the United States Bankruptcy Code on November 6, 2017, case number 17-44521-RFN-11. The matter was dismissed with prejudice for re-filing for 180 days on January 30, 2018.

6. On December 4, 2017, the United States Trustee filed Motions to Appoint Trustees in H. Melton Ventures, LLC and Henry J. Melton, II as well as a Motion to Convert to chapter 7 for Michael Warden. Agreed Orders for the appointment of chapter 11 trustees and conversion of the case for Michael Warden were entered on December 6, 2017.

7. Scott Seidel was appointed the chapter 11 trustee (the “Trustee”) for the estate of Henry James Melton, II the (“Debtor”) and continues to serve in that capacity.

STATEMENT OF FACTS

8. Debtor Henry Melton, II, according to the schedules filed, listed a sports memorabilia collection (the “Property”). The Trustee believes these items could be sold for the benefit of creditors.

9. The Trustee has undertaken a sale process to sell the Property on behalf of the bankruptcy estate. He has filed an Application to employ Rosen Systems, Inc. as auctioneers to market and sell the Property via auction. This Court entered an Order authorizing the employment of Rosen Systems, Inc. on March 9, docket number 214.

10. The Trustee files this Motion seeking court approval of an online sale of the Property, projected to be held on or about May 1, 2018. The proceeds are to be paid to the bankruptcy estate after the court approved 10% buyer’s premium to be held by the auctioneer. All items will have a designated minimum bid.

11. The proceeds from the sale will be paid to the bankruptcy estate to pay Chapter 11 claims, including but not limited to: Trustee’s fees/commission, expenses and professionals; auctioneer’s expenses; and creditor claims as provided by the United States Bankruptcy Code, all pursuant to further Application and Order of the Court.

RELIEF REQUESTED

12. By this Motion, the Trustee respectfully requests that this Court enter an order authorizing the Trustee to sell the Property “as is” “where is” without warranty or representations whatsoever, with no recourse to the Estate, via the online auction conducted by Rosen Systems, Inc.

13. Pursuant to Bankruptcy Code § 363(b), a Trustee may sell property of the estate outside the ordinary course of business, subject to approval of the Bankruptcy Court, after notice and hearing. *See* 11 U.S.C. § 363(b)(1). In the Fifth Circuit and elsewhere, it is well settled that a Trustee's decision to sell assets of the estate outside the ordinary course of business must be based on the sound judgment of the trustee. *See In re Continental Air Lines, Inc.*, 780 F.2d 1223 (5th Cir. 1986), *Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1311 (5th Cir. 1985).

14. The Trustee reserves his right, in his sole discretion, to withdraw from the sale at any time without any warning.

REQUEST FOR WAIVER OF STAY

15. The Trustee respectfully requests that the Court waive the stay of the effectiveness of any Order entered by the Court granting this Motion. Bankruptcy Rule 6004(h) states:

[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.

16. Buyers will need to remove their purchased Property from Rosen Systems within 3 days of the completion of the auction. Given the timetable for sale, the Trustee respectfully submits that cause exists for the Court to waive the 14-day stay of Bankruptcy Rule 6004(h).

PRAYER

The Trustee respectfully requests that this Court enter an order: (i) authorizing the Trustee to sell the Property “as is” “where is” without any representation or warranty, with no recourse to the Estate, to the highest bidders; (ii) authorizing the auctioneer to collect his 10% buyer’s premium from the sale prior to funds turnover to the chapter 11 Trustee; (iii) find that the Trustee’s fees/commission and costs attach to any proceeds coming into the Estate and be paid first pursuant to § 506 (c) and upon further Order of this Court; and (iv) granting the Trustee such other and further relief to which he may be justly entitled.

Respectfully submitted,

By: /s/ Scott M. Seidel
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**ATTORNEYS FOR THE
CHAPTER 11 TRUSTEE**

CERTIFICATE OF SERVICE

I certify that on April 4, 2018, I caused a copy of the foregoing document to be served by first class mail and/or the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas.

By: /s/ Scott M. Seidel